

ASSEMBLY BILL

No. 2688

**Introduced by Committee on Revenue and Taxation (Perea (Chair),
Beall, Charles Calderon, Cedillo, Fuentes, and Gordon)**

March 12, 2012

An act to amend Sections 6055, 6203.5, 6355, 7096, 7261, 7262, 9274, 30459.4, 32474, 40214, 41174, 43525, 45870, 46625, 50156.14, 55335, and 60633.1 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2688, as introduced, Committee on Revenue and Taxation. State Board of Equalization: worthless accounts: bullion and coins: transaction and use taxes: erroneous charges.

Existing sales and use tax laws authorize a deduction or refund of tax in the case of worthless and written-off accounts held by a retailer or lender under specified circumstances, which include establishing a proper election by filing an election with the State Board of Equalization before claiming the deduction or refund.

This bill would instead require the proper election to be established by the retailer and lender preparing and retaining an election form that would not need to be prepared or retained prior to claiming any deduction or refund.

Existing sales and use tax laws impose a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. That law provides various exemptions from those taxes, including an exemption for the gross

receipts from the sales in bulk of monetized bullion, nonmonetized gold and silver bullion, and numismatic coins, and the storage, use, or other consumption of those bullion and coins, as provided, and requires the State Board of Equalization to adjust the initial bulk threshold amount on or before September 1.

This bill would change the adjustment date to October 1.

Existing laws authorize districts, as specified, to levy, increase, or extend a transactions and use tax in accordance with the Transactions and Use Tax Law. The Transactions and Use Tax Law requires that the ordinance proposing the tax include certain provisions, including a provision imposing a transactions and use tax at a rate of 0.25%, or a multiple thereof.

This bill would instead authorize the levy, increase, or extension of a transactions and use tax at a rate of 0.125%, or a multiple thereof.

Existing law requires the State Board of Equalization to administer the Sales and Use Tax Law, Use Fuel Tax Law, Cigarette and Tobacco Products Tax Law, Alcoholic Beverage Tax Law, Energy Resources Surcharge Law, Emergency Telephone Users Surcharge Act, Hazardous Substances Tax Law, Integrated Waste Management Fee Law, Oil Spill Response, Prevention, and Administration Fees Law, Underground Storage Tank Maintenance Fee Law, Fee Collection Procedures Law, and Diesel Fuel Tax Law, and authorizes the board to undertake collection action on delinquent accounts, including issuing a levy or notice to withhold. Under existing sales and use tax laws, a taxpayer may file a claim with the board for reimbursement of bank charges or any other reasonable 3rd-party check charge fees incurred by the taxpayer as a direct result of an erroneous levy or notice to withhold by the board or erroneous processing or collection action, within 90 days of the date of the board action. Under the other laws, a taxpayer may only file a claim for those charges or fees incurred as a direct result of an erroneous levy or notice to withhold.

This bill would extend to those other laws, the authorization for a taxpayer to also file a reimbursement claim with the board for bank charges and other reasonable 3rd-party check charge fees incurred as a direct result of an erroneous processing action or erroneous collection action by the board within 90 days of the board action. This bill would, under those other laws and the sales and use tax laws, allow the board to extend the 90-day filing period for reasonable cause.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6055 of the Revenue and Taxation Code
2 is amended to read:

3 6055. (a) A retailer is relieved from liability for sales tax that
4 became due and payable, insofar as the measure of the tax is
5 represented by accounts that have been found to be worthless and
6 charged off for income tax purposes by the retailer or, if the retailer
7 is not required to file income tax returns, charged off in accordance
8 with generally accepted accounting principles. A retailer that has
9 previously paid the tax may, under rules and regulations prescribed
10 by the board, take as a deduction the amount found worthless and
11 charged off by the retailer. If these accounts are thereafter in whole
12 or in part collected by the retailer, the amount collected shall be
13 included in the first return filed after the collection and the tax
14 shall be paid with the return. For purposes of this subdivision, the
15 term “retailer” shall include any entity affiliated with the retailer
16 under Section 1504 of Title 26 of the United States Code.

17 (b) (1) In the case of accounts held by a lender, a retailer or
18 lender ~~who~~ *that* makes a proper election under paragraph (4) shall
19 be entitled to a deduction or refund of the tax that the retailer has
20 previously reported and paid if all of the following conditions are
21 met:

22 (A) A deduction was not previously claimed or allowed on any
23 portion of the accounts.

24 (B) The accounts have been found worthless and written off by
25 the lender in accordance with the requirements of subdivision (a).

26 (C) The contract between the retailer and the lender contains
27 an irrevocable relinquishment of all rights to the account from the
28 retailer to the lender.

29 (D) The retailer remitted the tax on or after January 1, 2000.

30 (E) The party electing to claim the deduction or refund under
31 paragraph (4) files a claim in a manner prescribed by the board.

32 (2) If the retailer or the lender thereafter collects in whole or in
33 part any accounts, one of the following shall apply:

34 (A) If the retailer is entitled to the deduction or refund under
35 the election specified in paragraph (4), the retailer shall include
36 the amount collected in its first return filed after the collection and
37 pay tax on that amount with the return.

1 (B) If the lender is entitled to the deduction or refund under the
2 election specified in paragraph (4), the lender shall pay the tax to
3 the board in accordance with Section 6451.

4 (3) For purposes of this subdivision, the term “lender” means
5 any of the following:

6 (A) Any person ~~who~~ *that* holds a retail account which that
7 person purchased directly from a retailer who reported the tax.

8 (B) Any person ~~who~~ *that* holds a retail account pursuant to that
9 person’s contract directly with the retailer ~~who~~ *that* reported the
10 tax.

11 (C) Any person ~~who~~ *that* is either an affiliated entity, under
12 Section 1504 of Title 26 of the United States Code, of a person
13 described in subparagraph (A) or (B), or an assignee of a person
14 described in subparagraph (A) or (B).

15 ~~(4) Prior to claiming any deduction or refund under this~~
16 ~~subdivision, For purposes of this section, a “proper election”~~
17 ~~shall be established when the retailer~~ *who that* reported the tax
18 and the lender ~~shall~~ prepare and retain an election *form*, signed by
19 both parties, designating which party is entitled to claim the
20 deduction or refund. This election may not be amended or revoked
21 unless a new election, signed by both parties, is prepared and
22 retained by the retailer and the lender.

23 SEC. 2. Section 6203.5 of the Revenue and Taxation Code is
24 amended to read:

25 6203.5. (a) A retailer is relieved from liability to collect use
26 tax that became due and payable, insofar as the measure of the tax
27 is represented by accounts that have been found to be worthless
28 and charged off for income tax purposes by the retailer or, if the
29 retailer is not required to file income tax returns, charged off in
30 accordance with generally accepted accounting principles. A
31 retailer that has previously paid the amount of the tax may, under
32 rules and regulations prescribed by the board, take as a deduction
33 the amount found worthless and charged off by the retailer. If these
34 accounts are thereafter in whole or in part collected by the retailer,
35 the amount collected shall be included in the first return filed after
36 the collection and the amount of the tax shall be paid with the
37 return. For purposes of this subdivision, the term “retailer” shall
38 include any entity affiliated with the retailer under Section 1504
39 of Title 26 of the United States Code.

1 (b) (1) In the case of accounts held by a lender, a retailer or
2 lender ~~who~~ *that* makes a proper election under paragraph (4) shall
3 be entitled to a deduction or refund of the tax that the retailer has
4 previously reported and paid if all of the following conditions are
5 met:

6 (A) A deduction was not previously claimed or allowed on any
7 portion of the accounts.

8 (B) The accounts have been found worthless and written off by
9 the lender in accordance with the requirements of subdivision (a).

10 (C) The contract between the retailer and the lender contains
11 an irrevocable relinquishment of all rights to the account from the
12 retailer to the lender.

13 (D) The retailer remitted the tax on or after January 1, 2000.

14 (E) The party electing to claim the deduction or refund under
15 paragraph (4) files a claim in a manner prescribed by the board.

16 (2) If the retailer or the lender thereafter collects in whole or in
17 part any accounts, one of the following shall apply:

18 (A) If the retailer is entitled to the deduction or refund under
19 the election specified in paragraph (4), the retailer shall include
20 the amount collected in its first return filed after the collection and
21 pay tax on that amount with the return.

22 (B) If the lender is entitled to the deduction or refund under the
23 election specified in paragraph (4), the lender shall pay the tax to
24 the board in accordance with Section 6451.

25 (3) For purposes of this subdivision, the term “lender” means
26 any of the following:

27 (A) Any person ~~who~~ *that* holds a retail account which that
28 person purchased directly from a retailer who reported the tax.

29 (B) Any person ~~who~~ *that* holds a retail account pursuant to that
30 person’s contract directly with the retailer ~~who~~ *that* reported the
31 tax.

32 (C) Any person ~~who~~ *that* is either an affiliated entity, under
33 Section 1504 of Title 26 of the United States Code, of a person
34 described in subparagraph (A) or (B), or an assignee of a person
35 described in subparagraph (A) or (B).

36 (4) ~~Prior to claiming any deduction or refund under this~~
37 ~~subdivision, For purposes of this section, a “proper election”~~
38 ~~shall be established when the retailer~~ *who that* reported the tax
39 and the lender ~~shall~~ prepare and retain an election *form*, signed by
40 both parties, designating which party is entitled to claim the

1 deduction or refund. This election may not be amended or revoked
2 unless a new election, signed by both parties, is prepared and
3 retained by the retailer and the lender.

4 SEC. 3. Section 6355 of the Revenue and Taxation Code is
5 amended to read:

6 6355. (a) There are exempted from the taxes imposed by this
7 part the gross receipts from the sale in bulk of monetized bullion,
8 nonmonetized gold or silver bullion, and numismatic coins that
9 are substantially equivalent to transactions in securities or
10 commodities through a national securities or commodities exchange
11 and the storage, use, or other consumption in this state of monetized
12 bullion, nonmonetized gold or silver bullion, and numismatic coins
13 so sold.

14 (b) (1) A sale in bulk, for purposes of this section, shall be
15 deemed to have occurred if the amount of monetized bullion,
16 nonmonetized gold or silver bullion, and numismatic coins sold
17 in the transaction totals, in market value, the sum of one thousand
18 dollars (\$1,000) or more, or its equivalent.

19 (2) The board shall adjust the one thousand dollar (\$1,000)
20 amount specified in paragraph (1) as follows:

21 (A) On or before September 1, 1994, and on or before each
22 ~~September~~ *October* 1 of each year thereafter, the board shall
23 multiply the amount applicable for the current calendar year by
24 the inflation factor adjustment determined by the Franchise Tax
25 Board pursuant to subdivision (h) of Section 17041, the resulting
26 amount to be the applicable amount for the succeeding calendar
27 year. The applicable amount shall be operative as an adjustment
28 of the amount specified in paragraph (1) only when the applicable
29 amount computed is equal to or exceeds a new operative threshold,
30 as defined in subparagraph (C).

31 (B) When the applicable amount equals or exceeds an operative
32 threshold specified in subparagraph (C), the resulting applicable
33 amount, rounded to the nearest multiple of five hundred dollars
34 (\$500), shall be operative for purposes of paragraph (1) beginning
35 January 1 of the succeeding calendar year.

36 (C) For purposes of this paragraph, “operative threshold” means
37 an amount that exceeds by at least five hundred dollars (\$500), the
38 greater of either the amount specified in paragraph (1) or the
39 amount computed pursuant to subparagraphs (A) and (B) as the
40 operative adjustment to the amount specified in paragraph (1).

1 (c) “Monetized bullion,” for purposes of this section, means
2 coins or other forms of money manufactured of gold, silver, or
3 other metal and heretofore, now, or hereafter used as a medium of
4 exchange under the laws of this state, the United States, or any
5 foreign nation. “Monetized bullion,” for purposes of this section,
6 also means gold medallions struck under authority of the American
7 Arts Gold Medallion Act (Title IV of Public Law 95-630).

8 (d) A sale of monetized bullion, nonmonetized gold or silver
9 bullion, or numismatic coins, for purposes of this section, shall be
10 deemed to be substantially equivalent to a transaction in securities
11 or commodities through a national securities or commodities
12 exchange, if the sale is by or through a person registered pursuant
13 to the Commodity Exchange Act (7 U.S.C. Sec. 1 et seq.) or not
14 required to be registered under the Commodity Exchange Act.

15 SEC. 4. Section 7096 of the Revenue and Taxation Code is
16 amended to read:

17 7096. (a) A taxpayer may file a claim with the board for
18 reimbursement of bank charges and any other reasonable
19 third-party check charge fees incurred by the taxpayer as the direct
20 result of an erroneous levy or notice to withhold, erroneous
21 processing action, or erroneous collection action by the board.
22 Bank and third-party charges include a financial institution’s or
23 third party’s customary charge for complying with the levy or
24 notice to withhold instructions and reasonable charges for
25 overdrafts that are a direct consequence of the erroneous levy or
26 notice to withhold, erroneous processing action, or erroneous
27 collection action. The charges are those paid by the taxpayer and
28 not waived or reimbursed by the financial institution or third party.
29 Each claimant applying for reimbursement shall file a claim with
30 the board that shall be in the form as may be prescribed by the
31 board. In order for the board to grant a claim, the board shall
32 determine that both of the following conditions have been satisfied:

33 (1) The erroneous levy or notice to withhold, erroneous
34 processing action, or erroneous collection action was caused by
35 board error.

36 (2) Prior to the erroneous levy or notice to withhold, erroneous
37 processing action, or erroneous collection action, the taxpayer
38 responded to all contacts by the board and provided the board with
39 any requested information or documentation sufficient to establish

1 the taxpayer's position. This provision may be waived by the board
2 for reasonable cause.

3 (b) Claims pursuant to this section shall be filed within 90 days
4 from the date of the erroneous levy or notice to withhold, erroneous
5 processing action, or erroneous collection action. *This 90-day filing*
6 *period may be extended by the board for reasonable cause.* Within
7 30 days from the date the claim is received, the board shall respond
8 to the claim. If the board denies the claim, the taxpayer shall be
9 notified in writing of the reason or reasons for the denial of the
10 claim.

11 SEC. 5. Section 7261 of the Revenue and Taxation Code is
12 amended to read:

13 7261. The transactions tax portion of any transactions and use
14 taxes ordinance adopted under this part shall be imposed for the
15 privilege of selling tangible personal property at retail, and shall
16 include provisions in substance as follows:

17 (a) A provision imposing a tax for the privilege of selling
18 tangible personal property at retail upon every retailer in the district
19 at a rate of ~~one-quarter~~ *one-eighth* of 1 percent, or a multiple
20 thereof, of the gross receipts of the retailer from the sale of all
21 tangible personal property sold by that person at retail in the
22 district.

23 (b) Provisions identical to those contained in Part 1
24 (commencing with Section 6001), insofar as they relate to sales
25 taxes and are not inconsistent with this part, except that the name
26 of the district as the taxing agency shall be substituted for that of
27 the state and that an additional transactor's permit shall not be
28 required if a seller's permit has been or is issued to the transactor
29 under Section 6067.

30 (c) A provision that all amendments subsequent to the effective
31 date of this part to Part 1 (commencing with Section 6001) relating
32 to sales tax and not inconsistent with this part shall automatically
33 become a part of the transactions and use taxes ordinance.
34 However, no amendment shall operate so as to affect the rate of
35 tax imposed by the district's board.

36 (d) A provision that the amount subject to tax shall not include
37 the amount of sales tax or use tax imposed by the State of
38 California or by any city, city and county, or county pursuant to
39 the Bradley-Burns Uniform Local Sales and Use Tax Law, or the
40 amount of any state-administered transactions or use tax.

1 (e) A provision that there are exempted from the tax the gross
2 receipts from the sale of tangible personal property, other than fuel
3 or petroleum products, to operators of aircraft to be used or
4 consumed principally outside the county in which the sale is made
5 and directly and exclusively in the use of the aircraft as common
6 carriers of persons or property under the authority of the laws of
7 this state, the United States, or any foreign government.

8 (f) A provision that sales of property to be used outside the
9 district which are shipped to a point outside the district, pursuant
10 to the contract of sale, by delivery to that point by the retailer or
11 his or her agent, or by delivery by the retailer to a carrier for
12 shipment to a consignee at such point, are exempt from the tax.

13 For purposes of this section, “delivery” of vehicles subject to
14 registration pursuant to Chapter 1 (commencing with Section 4000)
15 of Division 3 of the Vehicle Code, aircraft licensed in compliance
16 with Section 21411 of the Public Utilities Code, and undocumented
17 vessels registered under Division 3.5 (commencing with Section
18 9840) of the Vehicle Code shall be satisfied by registration to an
19 out-of-district address and by a declaration under penalty of
20 perjury, signed by the buyer, stating that the address is, in fact, his
21 or her principal place of residence.

22 “Delivery” of commercial vehicles shall be satisfied by
23 registration to a place of business out of district and a declaration
24 under penalty of perjury, signed by the buyer, that the vehicle will
25 be operated from that address.

26 (g) A provision that the sale of tangible personal property is
27 exempt from tax if the seller is obligated to furnish the property
28 for a fixed price pursuant to a contract entered into prior to the
29 operative date of the ordinance. A lease of tangible personal
30 property which is a continuing sale of that property is exempt from
31 tax for any period of time for which the lessor is obligated to lease
32 the property for an amount fixed by the lease prior to the operative
33 date of the ordinance. For the purposes of this subdivision, the sale
34 or lease of tangible personal property shall be deemed not to be
35 obligated pursuant to a contract or lease for any period of time for
36 which any party to the contract or lease has the unconditional right
37 to terminate the contract or lease upon notice, whether or not that
38 right is exercised.

39 SEC. 6. Section 7262 of the Revenue and Taxation Code is
40 amended to read:

7262. The use tax portion of any transactions and use tax ordinance adopted under this part shall impose a complementary tax upon the storage, use, or other consumption in the district of tangible personal property purchased from any retailer for storage, use, or other consumption in the district. The tax shall be at a rate of ~~one-quarter~~ *one-eighth* of 1 percent, or a multiple thereof, of the sales price of the property whose storage, use, or other consumption is subject to the tax, and the ordinance shall include provisions in substance as follows:

(a) Provisions identical to those contained in Part 1 (commencing with Section 6001), insofar as they relate to use taxes and are not inconsistent with this part, except that the name of the district as the taxing agency shall be substituted for that of the state. The name of the district shall be substituted for the word “state” in the phrase “retailer engaged in business in this state” in Section 6203 and in the definition of that phrase.

The following additional provisions shall be included:

(1) Except as provided in paragraph (2), a retailer engaged in business in the district shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the district or participates within the district in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the district or through any representative, agent, canvasser, solicitor, subsidiary, or person in the district under the authority of the retailer.

(2) “A retailer engaged in business in the district” shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser ~~who~~ *that* registers or licenses the vehicle, vessel, or aircraft at an address in the district.

(b) A provision that all amendments to the provisions of Part 1 (commencing with Section 6001) relating to the use tax and not inconsistent with this part shall automatically become a part of the ordinance. However, no amendment shall operate so as to affect the rate of tax imposed by the district’s board.

1 (c) A provision that the amount subject to tax shall not include
2 the amount of any sales tax or use tax imposed by the State of
3 California or by any city, city and county, or county pursuant to
4 the Bradley-Burns Uniform Local Sales and Use Tax Law (Part
5 1.5 (commencing with Section 7200)) or the amount of any
6 state-administered transactions or use tax.

7 (d) A provision that any person subject to a use tax under an
8 ordinance adopted pursuant to this part shall be entitled to credit
9 against that tax or any transactions tax, or to reimbursement for a
10 transactions tax, paid to a district or retailer in a district imposing
11 a transactions and use tax pursuant to this part.

12 (e) A provision that, in addition to the exemptions provided in
13 Sections 6366 and 6366.1, the storage, use, or other consumption
14 of tangible personal property, other than fuel or petroleum products,
15 purchased by operators of aircraft, and used or consumed by the
16 operators directly and exclusively in the use of the aircraft as
17 common carriers of persons or property for hire or compensation
18 under a certificate of public convenience and necessity issued
19 pursuant to the laws of this state, the United States, or any foreign
20 government, is exempt from the use tax.

21 (f) A provision that the storage, use, or other consumption in
22 the district of tangible personal property is exempt from the tax if
23 the purchaser is obligated to purchase the property for a fixed price
24 pursuant to a contract entered into prior to the operative date of
25 the ordinance. The possession of, or the exercise of any right or
26 power over, tangible personal property under a lease which is a
27 continuing purchase of the property is exempt from tax for any
28 period of time for which the lessee is obligated to lease the property
29 for an amount fixed by a lease entered into prior to the operative
30 date of the ordinance. For purposes of this subdivision, the storage,
31 use, or other consumption of, or possession of, or exercise of any
32 right or power over, tangible personal property shall be deemed
33 not to be obligated pursuant to a contract or lease for any period
34 of time for which any party to the contract or lease has the
35 unconditional right to terminate the contract or lease upon notice,
36 whether or not the right is exercised.

37 SEC. 7. Section 9274 of the Revenue and Taxation Code is
38 amended to read:

39 9274. (a) A taxpayer may file a claim with the board for
40 reimbursement of bank charges and any other reasonable

1 third-party check charge fees incurred by the taxpayer as the direct
2 result of an erroneous levy or notice to withhold, *erroneous*
3 *processing action, or erroneous collection action* by the board.
4 Bank and third-party charges include a financial institution's or
5 third party's customary charge for complying with the levy or
6 notice to withhold instructions and reasonable charges for
7 overdrafts that are a direct consequence of the erroneous levy or
8 notice to withhold, *erroneous processing action, or erroneous*
9 *collection action*. The charges are those paid by the taxpayer and
10 not waived for reimbursement by the financial institution or third
11 party. Each claimant applying for reimbursement shall file a claim
12 with the board that shall be in a form as may be prescribed by the
13 board. In order for the board to grant a claim, the board shall
14 determine that both of the following conditions have been satisfied:

15 (1) The erroneous levy or notice to withhold was caused by
16 board error, *erroneous processing action, or erroneous collection*
17 *action*.

18 (2) Prior to the *erroneous* levy or notice to withhold, *erroneous*
19 *processing action, or erroneous collection action*, the taxpayer
20 responded to all contacts by the board and provided the board with
21 any requested information or documentation sufficient to establish
22 the taxpayer's position. This provision may be waived by the board
23 for reasonable cause.

24 (b) Claims pursuant to this section shall be filed within 90 days
25 from the date of the *erroneous* levy or notice to withhold,
26 *erroneous processing action, or erroneous collection action*. *This*
27 *90-day filing period may be extended by the board for reasonable*
28 *cause*. Within 30 days from the date the claim is received, the
29 board shall respond to the claim. If the board denies the claim, the
30 taxpayer shall be notified in writing of the reason or reasons for
31 the denial of the claim.

32 SEC. 8. Section 30459.4 of the Revenue and Taxation Code
33 is amended to read:

34 30459.4. (a) A taxpayer may file a claim with the board for
35 reimbursement of bank charges and any other reasonable
36 third-party check charge fees incurred by the taxpayer as the direct
37 result of an erroneous levy or notice to withhold, *erroneous*
38 *processing action, or erroneous collection action* by the board.
39 Bank and third-party charges include a financial institution's or
40 third party's customary charge for complying with the levy or

1 notice to withhold instructions and reasonable charges for
2 overdrafts that are a direct consequence of the erroneous levy or
3 notice to withhold, *erroneous processing action, or erroneous*
4 *collection action*. The charges are those paid by the taxpayer and
5 not waived for reimbursement by the financial institution or third
6 party. Each claimant applying for reimbursement shall file a claim
7 with the board that shall be in a form as may be prescribed by the
8 board. In order for the board to grant a claim, the board shall
9 determine that both of the following conditions have been satisfied:

10 (1) The erroneous levy or notice to withhold, *erroneous*
11 *processing action, or erroneous collection action* was caused by
12 board error.

13 (2) Prior to the *erroneous* levy or notice to withhold, *erroneous*
14 *processing action, or erroneous collection action*, the taxpayer
15 responded to all contacts by the board and provided the board with
16 any requested information or documentation sufficient to establish
17 the taxpayer's position. This provision may be waived by the board
18 for reasonable cause.

19 (b) Claims pursuant to this section shall be filed within 90 days
20 from the date of the *erroneous* levy or notice to withhold,
21 *erroneous processing action, or erroneous collection action*. *This*
22 *90-day filing period may be extended by the board for reasonable*
23 *cause*. Within 30 days from the date the claim is received, the
24 board shall respond to the claim. If the board denies the claim, the
25 taxpayer shall be notified in writing of the reason or reasons for
26 the denial of the claim.

27 SEC. 9. Section 32474 of the Revenue and Taxation Code is
28 amended to read:

29 32474. (a) A taxpayer may file a claim with the board for
30 reimbursement of bank charges and any other reasonable
31 third-party check charge fees incurred by the taxpayer as the direct
32 result of an erroneous levy or notice to withhold, *erroneous*
33 *processing action, or erroneous collection action* by the board.
34 Bank and third-party charges include a financial institution's or
35 third party's customary charge for complying with the levy or
36 notice to withhold instructions and reasonable charges for
37 overdrafts that are a direct consequence of the erroneous levy or
38 notice to withhold, *erroneous processing action, or erroneous*
39 *collection action*. The charges are those paid by the taxpayer and
40 not waived for reimbursement by the financial institution or third

1 party. Each claimant applying for reimbursement shall file a claim
2 with the board that shall be in a form as may be prescribed by the
3 board. In order for the board to grant a claim, the board shall
4 determine that both of the following conditions have been satisfied:

5 (1) The erroneous levy or notice to withhold, *erroneous*
6 *processing action, or erroneous collection action* was caused by
7 board error.

8 (2) Prior to the *erroneous* levy or notice to withhold, *erroneous*
9 *processing action, or erroneous collection action*, the taxpayer
10 responded to all contacts by the board and provided the board with
11 any requested information or documentation sufficient to establish
12 the taxpayer's position. This provision may be waived by the board
13 for reasonable cause.

14 (b) Claims pursuant to this section shall be filed within 90 days
15 from the date of the *erroneous* levy or notice to withhold,
16 *erroneous processing action, or erroneous collection action. This*
17 *90-day filing period may be extended by the board for reasonable*
18 *cause*. Within 30 days from the date the claim is received, the
19 board shall respond to the claim. If the board denies the claim, the
20 taxpayer shall be notified in writing of the reason or reasons for
21 the denial of the claim.

22 SEC. 10. Section 40214 of the Revenue and Taxation Code is
23 amended to read:

24 40214. (a) A taxpayer may file a claim with the board for
25 reimbursement of bank charges and any other reasonable
26 third-party check charge fees incurred by the taxpayer as the direct
27 result of an erroneous levy or notice to withhold, *erroneous*
28 *processing action, or erroneous collection action* by the board.
29 Bank and third-party charges include a financial institution's or
30 third party's customary charge for complying with the levy or
31 notice to withhold instructions and reasonable charges for
32 overdrafts that are a direct consequence of the erroneous levy or
33 notice to withhold, *erroneous processing action, or erroneous*
34 *collection action*. The charges are those paid by the taxpayer and
35 not waived for reimbursement by the financial institution or third
36 party. Each claimant applying for reimbursement shall file a claim
37 with the board that shall be in a form as may be prescribed by the
38 board. In order for the board to grant a claim, the board shall
39 determine that both of the following conditions have been satisfied:

1 (1) The erroneous levy or notice to withhold, *erroneous*
2 *processing action, or erroneous collection action* was caused by
3 board error.

4 (2) Prior to the *erroneous* levy or notice to withhold, *erroneous*
5 *processing action, or erroneous collection action*, the taxpayer
6 responded to all contacts by the board and provided the board with
7 any requested information or documentation sufficient to establish
8 the taxpayer's position. This provision may be waived by the board
9 for reasonable cause.

10 (b) Claims pursuant to this section shall be filed within 90 days
11 from the date of the *erroneous* levy or notice to withhold,
12 *erroneous processing action, or erroneous collection action. This*
13 *90-day filing period may be extended by the board for reasonable*
14 *cause*. Within 30 days from the date the claim is received, the
15 board shall respond to the claim. If the board denies the claim, the
16 taxpayer shall be notified in writing of the reason or reasons for
17 the denial of the claim.

18 SEC. 11. Section 41174 of the Revenue and Taxation Code is
19 amended to read:

20 41174. (a) A taxpayer may file a claim with the board for
21 reimbursement of bank charges and any other reasonable
22 third-party check charge fees incurred by the taxpayer as the direct
23 result of an erroneous levy or notice to withhold, *erroneous*
24 *processing action, or erroneous collection action* by the board.
25 Bank and third-party charges include a financial institution's or
26 third party's customary charge for complying with the levy or
27 notice to withhold instructions and reasonable charges for
28 overdrafts that are a direct consequence of the erroneous levy or
29 notice to withhold, *erroneous processing action, or erroneous*
30 *collection action*. The charges are those paid by the taxpayer and
31 not waived for reimbursement by the financial institution or third
32 party. Each claimant applying for reimbursement shall file a claim
33 with the board that shall be in a form as may be prescribed by the
34 board. In order for the board to grant a claim, the board shall
35 determine that both of the following conditions have been satisfied:

36 (1) The erroneous levy or notice to withhold, *erroneous*
37 *processing action, or erroneous collection action* was caused by
38 board error.

39 (2) Prior to the *erroneous* levy or notice to withhold, *erroneous*
40 *processing action, or erroneous collection action*, the taxpayer

1 responded to all contacts by the board and provided the board with
2 any requested information or documentation sufficient to establish
3 the taxpayer's position. This provision may be waived by the board
4 for reasonable cause.

5 (b) Claims pursuant to this section shall be filed within 90 days
6 from the date of the *erroneous* levy or notice to withhold,
7 *erroneous processing action*, or *erroneous collection action*. This
8 90-day filing period may be extended by the board for reasonable
9 cause. Within 30 days from the date the claim is received, the
10 board shall respond to the claim. If the board denies the claim, the
11 taxpayer shall be notified in writing of the reason or reasons for
12 the denial of the claim.

13 SEC. 12. Section 43525 of the Revenue and Taxation Code is
14 amended to read:

15 43525. (a) A taxpayer may file a claim with the board for
16 reimbursement of bank charges and any other reasonable
17 third-party check charge fees incurred by the taxpayer as the direct
18 result of an erroneous levy or notice to withhold, *erroneous*
19 *processing action*, or *erroneous collection action* by the board.
20 Bank and third-party charges include a financial institution's or
21 third party's customary charge for complying with the levy or
22 notice to withhold instructions and reasonable charges for
23 overdrafts that are a direct consequence of the erroneous levy or
24 notice to withhold, *erroneous processing action*, or *erroneous*
25 *collection action*. The charges are those paid by the taxpayer and
26 not waived for reimbursement by the financial institution or third
27 party. Each claimant applying for reimbursement shall file a claim
28 with the board that shall be in a form as may be prescribed by the
29 board. In order for the board to grant a claim, the board shall
30 determine that both of the following conditions have been satisfied:

31 (1) The erroneous levy or notice to withhold, *erroneous*
32 *processing action*, or *erroneous collection action* was caused by
33 board error.

34 (2) Prior to the *erroneous* levy or notice to withhold, *erroneous*
35 *processing action*, or *erroneous collection action*, the taxpayer
36 responded to all contacts by the board and provided the board with
37 any requested information or documentation sufficient to establish
38 the taxpayer's position. This provision may be waived by the board
39 for reasonable cause.

(b) Claims pursuant to this section shall be filed within 90 days from the date of the *erroneous* levy or notice to withhold, *erroneous processing action*, or *erroneous collection action*. This 90-day filing period may be extended by the board for reasonable cause. Within 30 days from the date the claim is received, the board shall respond to the claim. If the board denies the claim, the taxpayer shall be notified in writing of the reason or reasons for the denial of the claim.

SEC. 13. Section 45870 of the Revenue and Taxation Code is amended to read:

45870. (a) A feepayer may file a claim with the board for reimbursement of bank charges and any other reasonable third-party check charge fees incurred by the taxpayer as the direct result of an erroneous levy or notice to withhold, *erroneous processing action*, or *erroneous collection action* by the board. Bank and third-party charges include a financial institution's or third party's customary charge for complying with the levy or notice to withhold instructions and reasonable charges for overdrafts that are a direct consequence of the erroneous levy or notice to withhold, *erroneous processing action*, or *erroneous collection action*. The charges are those paid by the feepayer and not waived for reimbursement by the financial institution or third party. Each claimant applying for reimbursement shall file a claim with the board that shall be in a form as may be prescribed by the board. In order for the board to grant a claim, the board shall determine that both of the following conditions have been satisfied:

(1) The erroneous levy or notice to withhold, *erroneous processing action*, or *erroneous collection action* was caused by board error.

(2) Prior to the *erroneous* levy or notice to withhold, *erroneous processing action*, or *erroneous collection action*, the feepayer responded to all contacts by the board and provided the board with any requested information or documentation sufficient to establish the feepayer's position. This provision may be waived by the board for reasonable cause.

(b) Claims pursuant to this section shall be filed within 90 days from the date of the *erroneous* levy or notice to withhold, *erroneous processing action*, or *erroneous collection action*. This 90-day filing period may be extended by the board for reasonable cause. Within 30 days from the date the claim is received, the

1 board shall respond to the claim. If the board denies the claim, the
2 feepayer shall be notified in writing of the reason or reasons for
3 the denial of the claim.

4 SEC. 14. Section 46625 of the Revenue and Taxation Code is
5 amended to read:

6 46625. (a) A feepayer may file a claim with the board for
7 reimbursement of bank charges and any other reasonable
8 third-party check charge fees that are incurred by the feepayer as
9 the direct result of an erroneous levy or notice to withhold,
10 *erroneous processing action, or erroneous collection action* by
11 the board. Bank and third-party charges include a financial
12 institution's or third party's customary charge for complying with
13 either a levy or instructions in a notice to withhold, and reasonable
14 charges for overdrafts that are a direct consequence of the
15 erroneous levy or notice to withhold, *erroneous processing action,*
16 *or erroneous collection action*. Bank charges include only those
17 charges that are paid by the feepayer and not waived for
18 reimbursement by the financial institution or third party. Each
19 claimant applying for reimbursement pursuant to this section shall
20 file a claim with the board that shall be in the form as may be
21 prescribed by the board. The board shall not grant a claim unless
22 it determines that both of the following conditions have been
23 satisfied:

24 (1) The erroneous levy or notice to withhold, *erroneous*
25 *processing action, or erroneous collection action* resulted from
26 board error.

27 (2) Prior to the *erroneous* levy or notice to withhold, *erroneous*
28 *processing action, or erroneous collection action*, the feepayer
29 responded to all contacts by the board and provided the board with
30 any requested information or documentation that was sufficient to
31 establish the feepayer's position. The requirement of this paragraph
32 may be waived by the board for reasonable cause.

33 (b) Claims pursuant to this section shall be filed within 90 days
34 from the date of the *erroneous* levy or notice to withhold ~~that is~~
35 ~~asserted to be erroneous,~~ *erroneous processing action, or*
36 *erroneous collection action*. *This 90-day filing period may be*
37 *extended by the board for reasonable cause*. The board shall
38 respond to a claim filed pursuant to this section within 30 days of
39 receipt. If the board denies a claim, the taxpayer shall be notified
40 in writing of the reason or reasons for denial.

1 SEC. 15. Section 50156.14 of the Revenue and Taxation Code
2 is amended to read:

3 50156.14. (a) A feepayer may file a claim with the board for
4 reimbursement of bank charges and any other reasonable
5 third-party check charge fees incurred by the taxpayer as the direct
6 result of an erroneous levy or notice to withhold, *erroneous*
7 *processing action, or erroneous collection action* by the board.
8 Bank and third-party charges include a financial institution's or
9 third party's customary charge for complying with the levy or
10 notice to withhold instructions and reasonable charges for
11 overdrafts that are a direct consequence of the erroneous levy or
12 notice to withhold, *erroneous processing action, or erroneous*
13 *collection action*. The charges are those paid to the feepayer and
14 not waived for reimbursement by the financial institution or third
15 party. Each claimant applying for reimbursement shall file a claim
16 with the board that shall be in a form as may be prescribed by the
17 board. In order for the board to grant a claim, the board shall
18 determine that both of the following conditions have been satisfied:

19 (1) The erroneous levy or notice to withhold, *erroneous*
20 *processing action, or erroneous collection action* was caused by
21 board error.

22 (2) Prior to the *erroneous* levy or notice to withhold, *erroneous*
23 *processing action, or erroneous collection action*, the feepayer
24 responded to all contacts by the board and provided the board with
25 any requested information or documentation sufficient to establish
26 the feepayer's position. This provision may be waived by the board
27 for reasonable cause.

28 (b) Claims pursuant to this section shall be filed within 90 days
29 from the date of the *erroneous* levy or notice to withhold,
30 *erroneous processing action, or erroneous collection action*. *This*
31 *90-day filing period may be extended by the board for reasonable*
32 *cause*. Within 30 days from the date the claim is received, the
33 board shall respond to the claim. If the board denies the claim, the
34 feepayer shall be notified in writing of the reason or reasons for
35 the denial of the claim.

36 SEC. 16. Section 55335 of the Revenue and Taxation Code is
37 amended to read:

38 55335. (a) A taxpayer may file a claim with the board for
39 reimbursement of bank charges and any other reasonable
40 third-party check charge fees incurred by the taxpayer as the direct

1 result of an erroneous levy or notice to withhold, *erroneous*
2 *processing action, or erroneous collection action* by the board.
3 Bank and third-party charges include a financial institution's or
4 third party's customary charge for complying with the levy or
5 notice to withhold instructions and reasonable charges for
6 overdrafts that are a direct consequence of the erroneous levy or
7 notice to withhold, *erroneous processing action, or erroneous*
8 *collection action*. The charges are those paid by the taxpayer and
9 not waived for reimbursement by the financial institution or third
10 party. Each claimant applying for reimbursement shall file a claim
11 with the board that shall be in a form as may be prescribed by the
12 board. In order for the board to grant a claim, the board shall
13 determine that both of the following conditions have been satisfied:

14 (1) The erroneous levy or notice to withhold, *erroneous*
15 *processing action, or erroneous collection action* was caused by
16 board error.

17 (2) Prior to the *erroneous* levy or notice to withhold, *erroneous*
18 *processing action, or erroneous collection action*, the taxpayer
19 responded to all contacts by the board and provided the board with
20 any requested information or documentation sufficient to establish
21 the taxpayer's position. This provision may be waived by the board
22 for reasonable cause.

23 (b) Claims pursuant to this section shall be filed within 90 days
24 from the date of the *erroneous* levy or notice to withhold,
25 *erroneous processing action, or erroneous collection action*. *This*
26 *90-day filing period may be extended by the board for reasonable*
27 *cause*. Within 30 days from the date the claim is received, the
28 board shall respond to the claim. If the board denies the claim, the
29 taxpayer shall be notified in writing of the reason or reasons for
30 the denial of the claim.

31 SEC. 17. Section 60633.1 of the Revenue and Taxation Code
32 is amended to read:

33 60633.1. (a) A taxpayer may file a claim with the board for
34 reimbursement of bank charges and any other reasonable
35 third-party check charge fees incurred by the taxpayer as the direct
36 result of an erroneous levy or notice to withhold, *erroneous*
37 *processing action, or erroneous collection action* by the board.
38 Bank and third-party charges include a financial institution's or
39 third party's customary charge for complying with the levy or
40 notice to withhold instructions and reasonable charges for

1 overdrafts that are a direct consequence of the erroneous levy or
2 notice to withhold, *erroneous processing action, or erroneous*
3 *collection action*. The charges are those paid by the taxpayer and
4 not waived for reimbursement by the financial institution or third
5 party. Each claimant applying for reimbursement shall file a claim
6 with the board that shall be in a form as may be prescribed by the
7 board. In order for the board to grant a claim, the board shall
8 determine that both of the following conditions have been satisfied:

9 (1) The erroneous levy or notice to withhold, *erroneous*
10 *processing action, or erroneous collection action* was caused by
11 board error.

12 (2) Prior to the *erroneous* levy or notice to withhold, *erroneous*
13 *processing action, or erroneous collection action*, the taxpayer
14 responded to all contacts by the board and provided the board with
15 any requested information or documentation sufficient to establish
16 the taxpayer's position. This provision may be waived by the board
17 for reasonable cause.

18 (b) Claims pursuant to this section shall be filed within 90 days
19 from the date of the *erroneous* levy or notice to withhold,
20 *erroneous processing action, or erroneous collection action*. *This*
21 *90-day filing period may be extended by the board for reasonable*
22 *cause*. Within 30 days from the date the claim is received, the
23 board shall respond to the claim. If the board denies the claim, the
24 taxpayer shall be notified in writing of the reason or reasons for
25 the denial of the claim.